

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
Norfolk Division

JTH TAX, INC.
d/b/a LIBERTY TAX SERVICE,

Plaintiff,

v.

Case No. 2:14cv543

ROBERT W. BERG,

Defendant.

ORDER

This matter comes before the court on plaintiff's Motion for Default Judgment (ECF No. 11) and Memorandum in Support (ECF No. 12), both filed on December 15, 2014. The matter was referred to a United States Magistrate Judge by Order of January 7, 2015 (ECF No. 13), pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) and Federal Rule of Civil Procedure 72(b), to conduct hearings, including evidentiary hearings, if necessary, and to submit to the undersigned proposed findings of fact, if applicable, and recommendations for the disposition of the matter.

The United States Magistrate Judge's Report and Recommendation (ECF No. 14) was filed on January 27, 2015. The magistrate judge recommended granting plaintiff's Motion for Default Judgment, and that judgment be entered against defendant.

By copy of the report and recommendation of the magistrate judge, the parties were advised of their right to file written objections thereto. The court has received no objections to the magistrate

judge's report and recommendation, and the time for filing same has expired. The court does hereby adopt and approve in full the findings and recommendations set forth in the Report and Recommendation of the United States Magistrate Judge filed on January 27, 2015. Accordingly, plaintiff's Motion for Default Judgment is **GRANTED**, and default judgment is entered against defendant as follows:

(1) the court **GRANTS** plaintiff's Motion for Default Judgment against defendant, and enters judgment in the amount of \$267,391.35 as the outstanding balance and amount due on the outstanding royalties and advertising fees;

(2) the court **GRANTS** plaintiff's request for injunctive relief against defendant, enjoining defendant, as well as his employees and agents, to:

(a) stop identifying their operations as a Liberty Tax franchisee, never hold out as a former Liberty Tax franchisee and cease, and not thereafter commence, use of any of the Marks or any marks that are likely to be confused with the Marks;

(b) stop using all literature received from Liberty and other items bearing the Marks;

(c) deliver to plaintiff all customer lists and information;

(d) deliver to plaintiff all customer tax returns, files, records, and copies;

(e) deliver to plaintiff the copy of the Operations Manual and any updates which plaintiff loaned to the defendant;

(f) transfer to plaintiff all telephone numbers, listings, and advertisements used in the former Liberty offices and deliver to plaintiff copies of such documents of transfer;

(g) never divulge or use for the benefit of anyone outside the Liberty system any information concerning customers served by the prior Liberty franchised business;


(h) not directly or indirectly prepare or electronically file income tax returns or offer bank products within Liberty territories CA 689, and CA 691, or within 25 miles of the boundaries of these territories, for two years from the date of July 10, 2014; and

(i) not directly or indirectly solicit the patronage of any former Liberty customer served by the defendant's prior Liberty offices during the time period of August 25, 2013, through July 10, 2014, for the purpose of offering tax preparation, electronic filing, or bank products, within former Liberty territories CA 689, and CA 691, or within 25 miles of the boundaries of these territories, for two years after July 10, 2014.

The Clerk shall so enter judgment for the plaintiff.

The Clerk shall forward a copy of this Order to all parties of record.

It is so ORDERED.

/s/
Rebecca Beach Smith
Chief
United States District Judge 

REBECCA BEACH SMITH
CHIEF UNITED STATES DISTRICT JUDGE

February 27, 2015